

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

DAVID LORENZO VALDIVIA,

Case No. 14-14429

Debtor.

Honorable John Corbett O'Meara

ORDER AFFIRMING ORDER OF THE BANKRUPTCY COURT

This matter came before the court on appellant/plaintiff Mary A. Hauk's November 20, 2014 appeal of the October 10, 2014 order of United States Bankruptcy Judge Thomas J. Tucker denying her request for issuance of a revised writ of execution.

On September 26, 2014, the clerk of the bankruptcy court issued a writ of execution at Judge Tucker's direction, striking certain language to make it clear that the writ was directed only to the United States Marshal, not to any state sheriff, deputy sheriff or state court officer. Plaintiff's attorney subsequently proposed a revised writ of execution specifically naming Michael Jones as the state court officer to be charged with serving the writ. Judge Tucker's October 10, 2014 order denied the request for the proposed writ; and it is that order which Appellant appeals.

The United States Court of Appeals for the Eleventh Circuit recently held that a district court lacked authority to order a sheriff to levy on one's property and that only a United States Marshal could do so. Branch Banking & Trust v. Ramsey, 559 Fed. Appx. 919, 924 (11th Cir. 2014). Appellant has failed to cite authority to the contrary. Despite Appellant's fears that execution of the writ may take longer, it must be effected by the United States Marshal Service and not by Appellant's chosen state officer.

ORDER

It is hereby **ORDERED** that the October 10, 2014 order of the bankruptcy court is **AFFIRMED**.

s/John Corbett O'Meara
United States District Judge

Date: March 3, 2015

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, March 3, 2015, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager